Attachment: Modified Proposed Regulation Order

The following text shows the Board-approved modifications to the originally proposed regulatory text for section 2011, title 13, California Code of Regulations. The modifications to the regulatory language approved at the March 24, 2004 public hearing and made available during the first comment period ending January 7, 2005, are shown in underline to indicate additions and ~~strikethrough~~ to indicate deletions. The modifications presented in this document are shown in double underline to indicate additions and ~~double strikethrough~~ to indicate deletions. No other regulatory sections affected by the March 24, 2004 approval are proposed for modification herein.

Adopt new section 2011, title 13, California Code of Regulations to read as follows: (Note: the entire text of section 2011 as set forth and modified below, is new language proposed to be added to the California Code of Regulations.)

§ 2011. Software Upgrade for 1993 through 1998 Model Year Heavy-Duty Trucks.

(a) Applicability. This section 2011 applies to Low NOx Rebuild Engines, as defined, operating in the State of California that are either;

(1) registered in California; or

(2) registered outside of California, as defined.

(b) Definitions. The definitions in section 1900 (b), Chapter 1, title 13 of the California Code of Regulations apply, with the following additions:

(1) “Driver” has the same meaning as title 13, California Code of Regulations, section 2180.1 (a)(7).

(2) “HHDDE” means a heavy-duty diesel engine certified as a motor vehicle heavy heavy-duty engine in accordance with title 13, California Code of Regulations, section 1956.8.

(3) “Incentive project” means a project conducted under applicable provisions in part IX.C of the Heavy Duty Diesel Engine Settlement Agreements with California and Consent Decrees with the United States Environmental Protection Agency. The California Settlement Agreements and federal Consent Decrees are identified in title 13, California Code of Regulations, section 1956.8 (a)(2)(A), footnote 1.

(4) “Low NOx Rebuild Kit” means an engine manufacturer’s software and/or minor hardware upgrade that results in lower emissions of oxides of nitrogen (NOx) when installed on the engine control module of heavy-duty diesel engines requiring such kits. Such engines are identified in plans

implementing a Low NOx Rebuild Program under both Heavy Duty Diesel Engine Settlement Agreements with California and Consent Decrees with the United States Environmental Protection Agency, and are listed in (b)(5). The California Settlement Agreements and federal Consent Decrees are identified in title 13, California Code of Regulations, section 1956.8 (a)(2)(A), footnote 1.

(5) "Low NOx Rebuild Engine" means a 1993 through 1998 model year heavy-duty diesel engine for which a Low NOx Rebuild Kit must be available for installation. The complete list of Low NOx Rebuild Engines is:

Low NOx Rebuild Engines

Make and Year	Engine Model	Notes				
Caterpillar 199~~3~~4 – 1998	3406E	Engine Serial Number (ESN) 5EK05767 ~~and up~~ through 5EK99381				
Caterpillar 199~~3~~4 – 1998	3406E	ESN: 6TS00097 ~~and up~~ through 6TS27803				
Caterpillar 199~~3~~4 – 1998	3406E	ESN: 1LW00001 through 1LW33262				
Caterpillar 199~~3~~4 – 1998	3406E	ESN: Reman 4AS00001 through 4AS00385				
Caterpillar 199~~3~~5 – 1998	3126	ESN: 1WM00210 through 1WM26819				
Caterpillar 199~~3~~5 – 1998	3126	ESN: 4ES000226 through 4ES00454				
Caterpillar 199~~3~~5 – 1998	3126	ESN: Reman 6RW00001 and up				
Caterpillar 1993 – 1998	3126B	ESN: 7AS00001 through 7AS3~~7588~~2636				
Caterpillar 199~~3~~5 – 199~~8~~7	3116	ESN: 8WL00297 through 8WL07351				
Caterpillar 1993 – 1998	3176B	ESN: 9CK00647 through 9CK32795				
Caterpillar 1993 – 1998	3176B	ESN: Reman 3LZ00001 and up				
Caterpillar 1993 – 1998	C-10	ESN: 2PN01000 through 2PN07278				
Caterpillar 1993 – 1998	C-10	ESN: 8YS00449 through 8YS07060				
Caterpillar 1993 – 1998	C-10	ESN: Reman AKB00001 and up				
Caterpillar 1993 – 1998	C-12	ESN: 1YN01200 through 1YN12844				
Caterpillar 1993 – 1998	C-12	ESN: 9NS00372 through 9NS19786				
Caterpillar 1993 – 1998	C-12	ESN: Reman ALS00001 and up				
Cummins 1993 – 1998	ISB Critical Parts List Number (CPL) 2446	~~Critical Parts List Number (CPL) 2446 through 2451~~				
		Horsepower (HP)	Torque (lb-ft)	Governed Speed	Original Software Calibration (SC) Options and Supercessions	Low NOx SC Option
		175	420	2500	9819	9819
		175	420	2500	9845	9845
Cummins 1993 – 1998	ISB CPL 2447	190	520	2500	9818	9818
		190	520	2500	9846	9846
		195	520	2600	9817	9817
		195	520	2600	9838	9838
Cummins 1993 – 1998	ISB CPL 2448	210	520	2600	9816	9816
		210	520	2600	9852	9852
		215	520	2500	9815	9815
		215	520	2500	9847	9847
		215	605	2500	9821	9821
		215	605	2500	9850	9850
Cummins 1993 – 1998	ISB CPL 2449	230	605	2500	9814	9814
		230	605	2500	9848	9848

		230	660	2500	9820	9820
		230	660	2500	9851	9851
Cummins 1993 – 1998	ISB CPL 2450	250	660	2500	9813	9813
		250	660	2500	9849	9849
Cummins 1993 – 1998	ISB CPL 2451	275	660	2500	9812	9812
		275	660	2500	9875	9875
Cummins 1993 – 1998	M11 CPL 1855	~~CPL 1855, 1856, 1857, 2036, 2037, 2370, and 2371~~				
		330	1250	2000	2798, 2818, 2834, 2889, 2950, 2124, 2285, 2474, 2542	20234
		330	1250	1800	2935, 2949, 2125, 2286, 2475, 2543	20235
		310	1150	2000	2923, 2954, 2129, 2287, 2476, 2544	20236
		310	1150	1800	2922, 2936, 2953, 2130, 2288, 2477, 2545	20237
		280	1050	2000	2784, 2794, 2814, 2830, 2885, 2921, 2958, 2133, 2292, 2480, 2548	20238
		280	1050	1800	2829, 2884, 2920, 2957, 2134, 2293, 2481, 2550	20239

		280 ESP	1050	1800	2792, 2883, 2928, 2961, 2181, 2298, 2391, 2485, 2556	20241
Cummins 1993 – 1998	M11 CPL 1856	370	1350	2000	2791, 2804, 2825, 2841, 2896, 2943, 2117, 2278, 2465, 2529	20228
		370	1350	1800	2932, 2942, 2118, 2279, 2466, 2532	20229
		350	1350	2000	2802, 2823, 2839, 2894, 2945, 2119, 2280, 2469, 2535	20230
		350	1350	1800	2933, 2944, 2120, 2281, 2470, 2537	20231
		330	1350	2000	2800, 2821, 2837, 2892, 2947, 2122, 2283, 2472, 2539	20232
		330	1350	1800	2934, 2946, 2123, 2284, 2473, 2541	20233

Cummins 1993 – 1998	M11 CPL 1857	310 ESP	1150	1800	2960, 2180, 2297, 2390, 2484, 2553	20240
Cummins 1993 – 1998	M11 CPL 2370	330	1250	1800	2601	20304
		330	1250	1800	2598	20305
		310	1150	2100	2603	20306
		280	1050	1800	2605	20307
		330	1250	2100	2599	20308
		310	1150	1800	2602	20309
		280	1050	1800	2604	20310
		305	1150	2100	2698	20311
Cummins 1993 – 1998	M11 CPL 2371	370	1350	1800	2588	20312
		350	1350	1800	2591	20313
		350	1350	1800	2594	20314
		330	1350	1800	2595	20315
		370	1450	1800	2587	20316
		330	1350	2100	2589	20317
		330	1350	2100	2596	20318
		420	1450	2100	2620	20319
		370	1350	1800	2621	20320
		370	1350	1800	2627	20321
		335	1350	2100	2631	20322
Cummins 1993 – 1998	M11 CPL 2036	330	1250	1800	2264	20289
		330	1250	1800	2261	20290
		310	1150	2100	2266	20291
		280	1050	2100	2268	20292
		330	1250	2100	2262	20293
		310	1150	1800	2265	20294
		280	1050	1800	2267	20295
Cummins 1993 – 1998	M11 CPL 2037	400	1450	1800	2189	20296
		370	1350	1800	2191	20297
		350	1350	1800	2194	20298
		350	1350	1800	2197	20299
		330	1350	1800	2198	20300
		370	1450	2100	2190	20301
		370	1350	2100	2192	20302
		370	1350	1800	2440	20303
Cummins 1993 – 1998	N14 CPL 1573	~~CPL 1573, 1574, 1807, 1809, 1844, 1987, 2025, 2026, 2027, 2389, 2390, and 2391~~				
		370	1400	1800	1215, 1510, 1590, 10017	10469
		370/460 ESP	1400/ 1550	2100	1216, 1306, 1512, 1259, 1592, 10019	10470

		410	1450	2100	1218, 1514, 1594, 10021	1047
		430	1450	1800	1220, 1515, 1595, 10022	10472
		430	1450	2100	1219, 1516, 1596, 10023	10473
Cummins 1993 – 1998	N14 CPL 1574	310	1250	1800	1204, 1501, 1581, 10008	10463
		310/430 ESP	1250/ 1450	1800	1206, 1304, 1502, 1567, 1582, 10009	10464
		330	1350	1800	1207, 1503, 1583, 10010	10465
		330	1350	1800	1125, 1208, 1504, 1584, 10011	10466
		350	1350	1800	1211, 1507, 1587, 10014	10467
		350	1400	1800	1212, 1508, 1588, 10015	10468
Cummins 1993 – 1998	N14 CPL 1807	310	1250	1800	1141, 1242, 1360, 1632, 10076	10480
		310/390 ESP	1250/ 1450	1800	1142, 1243, 1300, 1409, 1570, 1633, 10077	10481

		330	1350	1800	1143, 1244, 1361, 1634, 10078	10482
		330	1350	1800	1551, 1635, 10079	10483
		330	1350	1800	1602, 1636, 10080	10484
		330	1350	2100	1144, 1245, 1362, 1637, 10081	10485
		350	1350	1800	1145, 1246, 1363, 1638, 10082	10486
		350	1350	1800	1552, 1639, 10083	10487
		350	1400	1800	1147, 1248, 1365, 1641, 10085	10488
		350	1400	2100	1148, 1249, 1366, 1642, 10086	10489
		350/390 ESP	1350/ 1500	1800	1149, 1185, 1250, 1251, 1367, 1571, 1643, 10087	10490
		370	1400	1800	1150, 1253, 1368, 1646, 10090	10491
		370	1400	1800	1553, 1647, 10091	10492
		370	1450	1800	1152, 1255, 1370, 1649, 10093	10493

		370	1450	2100	1153, 1256, 1371, 1650, 10094	10494
Cummins 1993 – 1998	N14 CPL 1809	410	1450	1800	1163, 1258, 1373, 1655, 10099	10496
		410	1450	1800	1555, 1656, 10100	10497
		410	1450	2100	1164, 1259, 1374, 1657, 10101	10498
		410	1450	2100	1556, 1658, 10102	10499
		435	1450	1800	1165, 1260, 1375, 1659, 10103	10500
		435	1450	2100	1100, 1166, 1261, 1376, 1661, 10105	10501
		435	1450	2100	1578, 10045, 10106	10502
		435	1550	1800	1101, 1167, 1262, 1377, 1662, 10107	10503
		435	1550	2100	1102, 1168, 1263, 1378, 1663, 10108	10504

Cummins 1993 – 1998	N14 CPL 1844	400/460 ESP	1450/ 1650	1800	1103, 1161, 1170, 1265, 1266, 1267, 1380, 1381, 1575, 1665, 10100	10505
		435	1650	2100	1104, 1171, 1269, 1383, 1667, 10113	10506
		460	1650	2100	1106, 1173, 1272, 1386, 1670, 10116	10507
		500	1650	2100	1107, 1135, 1274, 1388, 1672, 10118	10508
Cummins 1993 – 1998	N14 CPL 1987	350/435	1350/ 1550	1800	1184, 1257, 1372, 1546, 1574, 1603, 1654, 10098	10495
Cummins 1993 – 1998	N14 CPL 2025	435	1450	1800	1437	10616
		435	1450	2100	1438	10617
		435	1550	1800	1439	10618
		435	1550	2100	1440	10619
		435	1650	1900	1542	10620
		435	1650	2100	1442	10621
		435/500 ESP	1550/ 1650	2100	1455	10622
		460	1550	2100	1444	10623
		460	1650	1900	1538	10624
		460	1650	2100	1446	10625
		500	1650	2100	1447	10626
		500	1750	2100	1448	10627
		525	1850	2100	1454	10628
		435 TOP2	1650	2100	10068	10629

		435 ESP TOP2	1550/ 1650	2100	10069	10630
Cummins 1993 – 1998	N14 CPL 2026	370/435 ESP	1450/ 1550	1800	1433	10510
		410	1450	1800	1430	10509
Cummins 1993 – 1998	N14 CPL 2027	330	1350	1800	1415	10606
		330/410 ESP	1350/ 1450	1800	1427	10607
		350	1350	1800	1417	10608
		350	1350	2100	1418	10609
		350	11400	1800	1420	10610
		370	1400	1800	1422	10611
		370	1450	1800	1425	10612
		370	1450	2100	1426	10613
		370	1450	2100	1561	10614
		330 ESP TOP2	1350/ 1450	1800	10061	10615
Cummins 1993 – 1998	N14 CPL 2389	330	1350	1800	10149	10631
		370	1450	1800	10156	10632
		370	1450	2100	10157	10633
		370	1450	2100	10342	10634
Cummins 1993 – 1998	N14 CPL 2390	370/435 ESP	1450/ 1550	1800	10161	10635
		370 ESP TOP2	1450/ 1550	1800	10242	10636
Cummins 1993 – 1998	N14 CPL 2391	435	1450	1800	10170	10637
		435	1450	2100	10172	10638
		435	1550	1800	10173	10639
		435	1650	2100	10176	10640
		435/500 ESP	1550/ 1650	2100	10180	10641
		460 ST2	1650/ 1850	1800	10261	10642
		460	1650	2100	10184	10643
		500	1650	2100	10186	10644
		525	1850	2100	10191	10645
		435 TOP2	1650	2100	10246	10646
		435 ESP TOP2	1550/ 1650	2100	10248	10647
Detroit Diesel Corp. 1994 – 199~~8~~7	S60 6067-GK60	ESN 6R157655 through 6R472018				
Detroit Diesel Corp. 1994 – 199~~8~~7	S60 6067-GK28	ESN 6R157655 through 6R472018				
Detroit Diesel Corp. ~~1994 –~~ 1998	S60 6067-TK60	ESN 6R157655 through 6R472018				
Detroit Diesel Corp. ~~1994 –~~ 1998	S60 6067-TK28	ESN 6R157655 through 6R472018				
Detroit Diesel Corp. ~~1994 –~~ 1998	S60 6067-PK60	ESN 6R157655 through 6R472018				
Detroit Diesel Corp. ~~1994 –~~ 1998	S60 6067-PK28	ESN 6R157655 through 6R472018				
Detroit Diesel Corp. 1994 – 199~~8~~5	S60 6067-WK60	ESN 6R157655 through 6R472018				
Detroit Diesel Corp. 1994 – 199~~8~~5	S60 6067-WK28	ESN 6R157655 through 6R472018				
Detroit Diesel Corp. 199~~4~~6 – 199~~8~~7	S60 6067-SK60	ESN 6R157655 through 6R472018				

Detroit Diesel Corp. 199~~4~~6–199~~8~~7	S60 6067-SK28	ESN 6R157655 through 6R472018
~~Detroit Diesel Corp. 1994 – 1998~~	~~6067-EK60~~	~~ESN 6R157655 through 6R472018~~
~~Detroit Diesel Corp. 1994 – 1998~~	~~6067-EK28~~	~~ESN 6R157655 through 6R472018~~
Mack 1994 – 1998	EM7-275	ESN 4B through 8R
Mack 1994 – 1998	EM7-300	ESN 4B through 8R
Mack 1994 – 1998	E7-300	ESN 4B through 8R
Mack 1994 – 1998	E7-310/330	ESN 4B through 8R
Mack 1994 – 1998	E7-330/350	ESN 4B through 8R
Mack 1994 – 1998	E7-350	ESN 4B through 8R
Mack 1994 – 1998	E7-355/380	ESN 4B through 8R
Mack 1994 – 1998	E7-375	ESN 4B through 8R
Mack 1994 – 1998	E7-400	ESN 4B through 8R
Mack 1994 – 1998	E7-427	ESN 4B through 8R
Mack 1994 – 1998	E7-454	ESN 4B through 8R
Mack 1994 – 1998	E7-460	ESN 4B through 8R
Renault VI 1993 –1998	MIDR06~~-~~02~~-~~26M/2	Engine Family Name (EFNa) PRE0377FAC9
Renault VI 1993 –1998	MIDR060226L511	EFNa: SR3377D8DAAW, TR3377D8DAAW, and VR3377D8DAAW
Renault VI 1993 –1998	MIDR060226M511	EFNa: SR3377D8DABW, TR3377D8DABW, and VR3377D8DABW
Navistar/International 1998	DT 466E	Engine Family Number (EFN) WNVXH0466FNA
Navistar/International 1998	DT 466E	EFN: WNVXH0466CCB, WNVXH0466FNC
Navistar/International 1998	DT 466E	EFN: WNVXH0466CCD
Navistar/International 1998	530E	EFN: WNVXH0530FNA, WNVXH0530CCB
Navistar/International 1998	530E	EFN: WNVXH0530FNC, WNVXH0530CCD
Volvo 1994 – 1998	VE D12	~~Engine Family Name (~~EFNa~~)~~ RVT12.EJDBRA
Volvo 1994 – 1998	VE D12	EFNa: SVT12.EJDBRA, TVT12.EJDBRA
Volvo 1994 – 1998	VE D12A	EFNa: VVT12.EJDBRA
Volvo 1994 – 1998	VE D12B-345 EPG	EFNa: WVTXH12.150S
Volvo 1994 – 1998	VE D12B-385 EPG	EFNa: WVTXH12.150S
Volvo 1994 – 1998	VE D12B-425 EPG	EFNa: WVTXH12.150S
Volvo 1994 – 1998	VE D12B-345 VEB	EFNa: WVTXH12.150S
Volvo 1994 – 1998	VE D12B-385 VEB	EFNa: WVTXH12.150S
Volvo 1994 – 1998	VE D12B-425 VEB	EFNa: WVTXH12.150S
Volvo ~~1994 –~~ 1998	VE D7C-275	EFNa: WVTXH07.350S
Volvo ~~1994 –~~ 1998	VE D7C-300	EFNa: WVTXH07.350S

(6) “Low NOx Engine Manufacturer” means an engine manufacturer that was required to develop Low NOx Rebuild Kits under (b)(4).

(~~6~~7) “MHDDE” means a heavy-duty diesel engine certified as a motor vehicle medium heavy-duty engine in accordance with title 13, California Code of Regulations, section 1956.8.

(~~7~~8) “Offset project” means a project conducted under applicable provisions in part IX.C of the Heavy Duty Diesel Engine Settlement Agreements with California and Consent Decrees with the United States Environmental Protection Agency. The California Settlement Agreements and federal Consent Decrees are identified in title 13, California Code of Regulations, section 1956.8 (a)(2)(A), footnote 1.

(~~8~~9) "Owner" has the same meaning as title 13, California Code of Regulations, section 2180.1 (a)(21).

(~~9~~10) "Registered outside of California" means any of the following:

(A) A heavy-duty diesel-powered vehicle operating in California under the terms of Interstate Reciprocity Agreements as authorized by Article 3 (commencing with section 8000), Chapter 4, Division 3 of the Vehicle Code and which belongs to a fleet that is not based in California;

(B) A heavy-duty diesel-powered vehicle operating in California under the terms of any other apportioned registration, reciprocity, or bilateral prorate registration agreement between California and other jurisdictions and which belongs to a fleet that is not based in California; or

(C) A heavy-duty diesel-powered vehicle operating in California under a short-term vehicle registration or permit of 90 days or less (including but not limited to 90-day temporary registrations and 4-day permits under Vehicle Code section 4004).

(c) Standards.

(1) On and after the applicable implementation date in subsection (d), and, except as provided in (e)(2), a vehicle propelled by a Low NOx Rebuild Engine must not operate on highways within the State of California without a Low NOx Rebuild Kit installed that meets the following emission requirements:

Software Upgrade Requirements					
Option A (1994 – 1998)			**Option B (1993 – 1998)**		
	MHDDE	**HHDDE**		**MHDDE**	**HHDDE**
Euro III	6.0 g/bhp-hr	7.0 g/bhp-hr	**Euro III**	6.5 g/bhp-hr	7.5 g/bhp-hr
NTE	7.5 g/bhp-hr	8.75 g/bhp-hr	**NTE**	8.1 g/bhp-hr	9.38 g/bhp-hr

Manufacturer Option for Software Upgrade		
Company	**Option**	**MY Year**
Caterpillar	B	1993 - 1998
Cummins	B	1993 - 1998
Detroit Diesel Corporation	A	1994 – 1998
Mack	A	1994 – 1998
Navistar	not applicable	1998 (only)

Volvo	A	1994 – 1998
Renault	B	1993 - 1998

(2) A Low NOx Rebuild Engine manufacturer’s authorized dealers, distributors, repair facilities, and rebuild facilities, except as provided in (e)(2), must:

(A) provide upon request and at no added cost a Low NOx Rebuild Kit to the owner or driver of a vehicle with a Low NOx Rebuild Engine, and to any non-affiliated rebuilder or other person; and

(B) install the Low NOx Rebuild Kit within a reasonable amount of time.

(3) Except as provided in (e)(2), Low NOx Rebuild Engine ~~m~~Manufacturers must reimburse authorized dealers, distributors, repair facilities, and rebuild facilities for their costs to install Low NOx Rebuild Kits on Low NOx Rebuild Engines, at the reimbursement cost level paid under the Consent Decrees and Settlement Agreements. Low NOx Rebuild Engine ~~m~~Manufacturers may choose to reimburse at a rate above the reimbursement cost level paid under the Consent Decrees and Settlement Agreements. ~~incurred to meet the requirement in (2) to ensure that those identified in (2) pay no added cost~~.

(~~3~~4) No person may install on a Low NOx Rebuild Engine any engine software containing electronic control strategies, other than a Low NOx Rebuild Kit.

(~~4~~5) Any person installing a Low NOx Rebuild Kit must affix a label to each engine at time of installation. The label must do all of the following:

(A) The label must contain an identifiable characteristic allowing the ARB to determine whether a Low NOx Rebuild Engine has had the appropriate Low NOx Rebuild Kit installed. This identifiable characteristic may be a unique part number or other marking on the engine control module;

(B) The label must contain a statement with appropriate blank spaces for the individual performing the installation to indicate when and by whom the Low NOx Rebuild Kit was installed on the engine;

(C) The label must be placed in such a location as approved by the ARB consistent with California law;

(D) The label must be fabricated of a material suitable for the location in which it is installed; and

(E) The label must not be readily removable intact.

(~~5~~6) The owner of a vehicle cited for violating (c)(1) of this section must submit proof of Low NOx Rebuild Kit installation, as identified in title 13, CCR, section 2186, within 45 days of personal or certified receipt of the citation.

(7) Any Low NOx Rebuild Manufacturers' authorized dealers, distributors, repair facilities, or rebuild facilities, except as provided in (e)(2), refusing to install a Low NOx Rebuild Kit upon request, or failing to install a Low NOx Rebuild Kit within a reasonable amount of time from that request, shall be subject to a civil penalty of $500 per incident.

(d) Implementation Dates.

(1) 1993 and 1994 model year Low NOx Rebuild Engines, except as provided in (e)(2), must have a Low NOx Rebuild Kit installed by April 30, 2005.

(2) 1995 and 1996 model year Low NOx Rebuild Engines, except as provided in (e)(2), must have a Low NOx Rebuild Kit installed by August 31, 2005.

(3) 1997 and 1998 model year Low NOx Rebuild Engines other than MHDDE, except as provided in (e)(2), must have a Low NOx Rebuild Kit installed by December 31, 2005.

(4) 1997 and 1998 model year MHDDE Low NOx Rebuild Engines, except as provided in (e)(2), must have a Low NOx Rebuild Kit installed by December 31, 2006.

(e) Exemptions.

(1) A Low NOx Rebuild Engine receiving a software upgrade performed as part of an approved incentive or offset project prior to the adoption of Section 2011 is exempt from the requirements in (c).

(2) Low NOx Rebuild Engines identified in (b)(5) as a make and year of Detroit Diesel Corp. (DDC) are exempt from the requirements of this regulation, as the Board has found that DDC has met the first voluntary program target and is on track to meet future targets under the voluntary program. Owners, authorized dealers, and distributors of these engines, and repair and rebuild facilities for these engines, are likewise exempt from the provisions of this regulation with respect to these engines.~~in (c), provided that DDC voluntarily installs Low NOx Rebuild Kits at the following rate:~~

~~(A) Low NOx Rebuild Kits must be installed on 60 percent of DDC's Low NOx Rebuild Engines no later than May 31, 2005;~~

~~(B) Low NOx Rebuild Kits must be installed on 80 percent of DDC's Low NOx Rebuild Engines no later than January 31, 2006; and~~

~~(C) Low NOx Rebuild Kits must be installed on 100 percent of DDC's Low NOx Rebuild Engines no later than January 1, 2008.~~

~~(3) A Low NOx Rebuild Engine manufacturer subject to the provisions in (c)(2) shall report the number of Low NOx Rebuild Kit installations with the dealership name and address, the date of installation, vehicle identification number, engine make and model year, and ESN for each installation. Reports shall be submitted electronically to the Executive Officer or designated representative on the following schedule:~~

~~(A) Submit a report on June 7, 2005, of Low NOx Rebuild Kits installed from October 28, 2004, through May 31, 2005.~~

~~(B) Submit a report on February 7, 2006, of Low NOx Rebuild Kits installed from June 1, 2005, through January 31, 2006.~~

~~(C) Submit a report on January 7, 2008, of Low NOx Rebuild Kits installed from February 1, 2006, through December 31, 2007.~~

~~(4) The Executive Officer shall review each report in (3), applying the criteria in Appendix A, to determine if a Low NOx Rebuild Engine manufacturer has met the next installation rate in (c)(2), if any, and to consider whether the manufacturer's installation progress is sustainable toward meeting the next installation rate in (c)(2), if any.~~

~~(A) If the Executive Officer determines that a Low NOx Rebuild Engine manufacturer has not met the installation rate in (c)(2), an Executive Officer public hearing shall be convened to consider removing the exemption for that manufacturer's engines.~~

~~(B) If the Executive Officer hearing results in the Low NOx Rebuild Engine manufacturer's engines being subject to the requirements in (c) within the date range below, the compliance schedule requiring installation of Low NOx Rebuild Kits on the manufacturer's 1994 through 1998 model year Low NOx Rebuild Engines is as listed here:~~

~~Date Range~~	~~Compliance Schedule~~
~~April 30, 2005 – September 30, 2005~~	~~December 31, 2005~~
~~October 1, 2005 – September 30, 2006~~	~~December 31, 2006~~
~~October 1, 2006 – July 1, 2007~~	~~December 31, 2007~~

~~(C) Any determination under (A) that results in subjecting a manufacturer's engines to a compliance schedule in (B) will be communicated to affected persons and published in the California Regulatory Notice Register.~~

(f) Severability.

If any provision of this section or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

(g) The requirements in (c)(2) <u>and (c)(3)</u> are a declaration of existing legal obligations.

NOTE: Authority Cited: Sections 39600, 39601, 43013, 43018, and 43701, Health and Safety Code. Reference: Sections 39001, 39003, 43000, 43013, <u>43016,</u> and 43018, Health and Safety Code.

~~**Appendix A**~~

~~Voluntary Software Upgrade Program Discussion Paper (March 16, 2004)~~